

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEANGELEO ANTIONE HUGHES, No C-10-0944 VRW
Petitioner,
v ORDER
JAMES WALKER, Warden,
Respondent.

Petitioner, a state prisoner incarcerated at the California State Prison at Sacramento in Sacramento, California, has filed a petition for a writ of habeas corpus under 28 USC § 2254.

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23 Petitioner was convicted by a jury in Solano County
24 superior court of first degree murder and attempted robbery and was
25 sentenced to life imprisonment without the possibility of parole.
26 Petitioner unsuccessfully appealed the judgment to the California
27 court of appeal and the Supreme Court of California, which on
28 December 10, 2008 denied review. Doc #1 at 5.

II

A

4 This court may entertain a petition for a writ of habeas
5 corpus "in behalf of a person in custody pursuant to the judgment of
6 a State court only on the ground that he is in custody in violation
7 of the Constitution or laws or treaties of the United States." 28
8 USC § 2254(a). It shall "award the writ or issue an order directing
9 the respondent to show cause why the writ should not be granted,
10 unless it appears from the application that the applicant or person
11 detained is not entitled thereto." Id § 2243.

B

14 Petitioner seeks habeas corpus relief by raising claims
15 that the trial court erred in giving improper jury instructions and
16 denying petitioner the right to cross-examine the prosecution's
17 witness-in-chief at trial, and that the prosecutor violated
18 petitioner's Fourteenth Amendment right by making degrading comments
19 towards defense counsel. Doc #1. Because petitioner's claims
20 appear cognizable under section 2254, they merit an answer from
21 respondent.

III

24 For the reasons stated above and good cause shown,

25 1. The clerk shall serve by certified mail a copy of
26 this order and the petition, and all attachments thereto, on
27 respondent and respondent's attorney, the Attorney General of the
28 State of California.

1 2. Respondent shall file electronically with the court,
2 within sixty (60) days of the issuance of this order, an answer
3 conforming in all respects to Rule 5 of the Rules Governing Section
4 2254 Cases, showing cause why a writ of habeas corpus should not be
5 granted. Respondent shall file with the answer a copy of all
6 portions of the state trial record that have been transcribed
7 previously and that are relevant to a determination of the issues
8 presented by the petition.

9 If petitioner wishes to respond to the answer, he shall do
10 so by filing a traverse with the court and serving it on respondent
11 within thirty (30) days of his receipt of the answer.

12 3. In lieu of an answer, respondent may file a motion to
13 dismiss on procedural grounds as set forth in the Advisory Committee
14 Notes to Rule 4 of the Rules Governing Section 2254 Cases. If
15 respondent files such a motion, petitioner shall file with the court
16 and serve on respondent an opposition or statement of non-opposition
17 within thirty (30) days of receipt of the motion, and respondent
18 shall file with the court and serve on petitioner a reply within
19 fifteen (15) days of receipt of any opposition.

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21 IT IS SO ORDERED.



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23 VAUGHN R WALKER
24 United States District Chief Judge
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